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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,048	01/21/2004	Samuel David Arthur	CL1845 US DIV	4475

23906 7590 05/19/2006

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WILMINGTON, DE 19805

EXAMINER
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SELLERS, ROBERT E

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,048	<b>Applicant(s)</b> ARTHUR, SAMUEL DAVID	
	<b>Examiner</b> Robert Sellers	<b>Art Unit</b> 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18,20,25 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18,20 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 18,20,25 and 33 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The limitation of independent claim 18 to the amine to ammonia in the amendment filed May 10, 2006 overcomes the 35 U.S.C. 102(b) rejection over Kwon et al., Ohoka et al., deCleur et al., Johannes et al. or Goring et al.; the 35 U.S.C. 102(a, b or e) or 103(a) rejection over European '904, Zhou et al., Shah et al. or European '263; and the 35 U.S.C. 102(a) or 103(a) rejection over Hart et al.

2. Newly submitted claim 33 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 18, 20 and 25 directed to a blend of a bisphenol A polyepoxide, a carboxyl-functional polyester and ammonia, and claim 33 drawn to the blend further comprising a carboxyl-functional polymer and are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product, and the species are patentably distinct (MPEP § 806.05(j)). In the instant case, the intermediate product is deemed to be useful as an adhesive and the inventions are deemed patentably distinct because there is nothing on this record to show them to be obvious variants.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 33 is withdrawn from consideration as being directed to a non-elected invention (37 CFR 1.142(b) and MPEP § 821.03).

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3. Furthermore, claim 33 defining the further presence of a carboxyl-functional polymer unreacted with an organic amine or ammonia is not supported by the “untreated powder” described on page 8, line 24, since the term refers specifically to neopentyl glycol terephthalate carboxy polyester blends with bisphenol A epoxy resin as opposed to the more broadly claimed carboxyl-functional polymer. In addition, the organic amine in line 3 has been deleted from claim 18 wherefrom claim 33 depends.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18, 20 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention at the time the application was filed.

4. There is no support for the lack of reaction between bisphenol A polyepoxide compound (a) and carboxyl-functional polyester (b). Page 3, line 1-3 refers to the aversion to premature curing which has already been denoted by the claimed terms “uncured” and “uncrosslinked” in claim 18, lines 1 and 7. There is no substantiation for the complete lack of reaction of components (a) and (b).

Claims 18, 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 50-85632.

The rejection is converted from 35 U.S.C. 102(b) since the claims have been confined to a bisphenol A polyepoxy compound and a carboxyl-functional polyester which is disclosed but not exemplified. Otherwise, the rejection is maintained for the reasons of record set forth in the non-Final rejection mailed October 10, 2005.

The arguments filed May 10, 2006 have been considered but are unpersuasive.

5. Although the particular newly claimed species of polyepoxy compound and carboxyl-functional polymer are not exemplified, it is well within the purview of the Japanese patent to utilize a carboxyl group-containing polyester (page 8, second paragraph) as the polyvalent carboxyl compound (page 5, second paragraph) and a bisphenol A epoxy resin as the polyvalent epoxy compound (page 7, second paragraph).

6. The translation for the Japanese patent (page 4, penultimate line to page 5, line 4 and page 12, third paragraph) indicates the formation of a salt from the carboxyl group of the polyvalent carboxyl compound such as a carboxyl group-containing polyester and an amino group from ammonia to prevent a crosslinking reaction with an epoxy group from a polyvalent epoxy compound such as a bisphenol A epoxy resin as required in newly amended independent claim 18.

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The amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL** (MPEP § 706.07(a)).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Robert Sellers  
Primary Examiner  
Art Unit 1712

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5/17/2006